

**Illinois Department of Revenue
Regulations**

Title 86 Part 200 Section 200.175 Rehearings

TITLE 86: REVENUE

**PART 200
PRACTICE AND PROCEDURE FOR HEARINGS BEFORE
THE ILLINOIS DEPARTMENT OF REVENUE**

Section 200.175 Rehearings

- a) After the issuance of a final assessment or a Notice of Tax Liability which has become final pursuant to Section 4 or Section 5 of the Retailers' Occupation Tax Act [35 ILCS 120/4 or 5] or another Act in which Section 4 or Section 5 is incorporated by reference, the Department, at any time before such assessment is reduced to judgment, may grant a rehearing or grant review and hold an original hearing (in cases of failure to timely protest) upon the application of the person aggrieved. This provision shall not apply in any situation in which an assessment that has become final and unappealable has been paid by or on behalf of the taxpayer in liquidation of that assessment.
- b) To be considered for initial review or rehearing, a taxpayer must submit a written application therefor to the Chief Administrative Law Judge, offering specific and detailed rationale for each basis used to support the request. Where a rehearing is sought following issuance of a final Departmental decision, all errors of fact or law viewed as affecting the validity of that decision must be set forth. If new evidence, not previously available and which the taxpayer was not required to maintain or keep as part of its own records is sought to be admitted, explanation of the nature of that evidence and how it affects the decision shall also be included. In any instance where the request for rehearing follows a finding of default, the reason(s) for failure to appear shall be given, accompanied by an affidavit or other required document(s) verifying the statement(s) offered. In determining whether to permit an initial review or rehearing, the Department shall consider such factors as: the offer of proof with respect to matters in controversy; new evidence and the nature and complexity of legal issues raised; the diligence of the person seeking the rehearing; the passage of time between the finalization of the assessment and the request for review. No second or subsequent application for review or rehearing relating to the same operative set of facts shall be considered by the Department.
- c) Following Department evaluation of an application for review or rehearing:
 - 1) The applicant shall be advised in writing of the decision to either grant or deny the request
 - 2) In each instance where an application for review or rehearing is denied, the Department, in its notice thereof, shall set forth the reasons therefor in explanation of the denial.

- d) In any case where the issue to be heard involves one or more assessed liabilities, approval of any application for review or rehearing may be conditioned upon the taxpayer's remittance to the Department, within 30 days of issuance of the notice, of a deposit of not more than 25% of the total liability incurred.
- e) In any case where an application for rehearing follows a finding of default in the original proceeding, approval of such application shall be further conditioned upon reimbursement to the Department, within the same 30-day period, of outstanding charges for court reporting services having been incurred for that default.
- f) If a rehearing (or an original hearing, in the case of failure to timely protest) is held, the recommendation of the Administrative Law Judge and a notice of final decision shall be made as provided in Sections 200.165 and 200.170.
- g) In the event of the filing of a timely protest and granting of a rehearing pursuant to Section 908(c) or Section 910(c) of the Illinois Income Tax Act [35 ILCS 5/908 or 910], the case and the hearing record shall be reopened and resumed to include the rehearing proceedings. Thereafter, as soon as practicable, the Department shall issue a notice of final decision, in accordance with Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50], which, in the Department's discretion, shall be supported for purposes of the record by a statement in the nature of an opinion summarizing the facts from the record together with applicable law and rationale.
- h) In any circumstance in which a rehearing may be granted after the original has taken place, no new or additional discovery may be initiated by any party to the proceeding.

(Source: Amended at 20 Ill. Reg. 888, effective January 1, 1996)